

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,
v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,
v.

Adv. Pro. No. 09-01305 (SMB)

COHMAN SECURITIES CORPORATION, *et al.*,

Defendants.

**ORDER DENYING DEFENDANT JONATHAN GREENBERG'S
MOTION FOR A PROTECTIVE ORDER AND TO
QUASH TWO SUBPOENAS UNDER FED. R. CIV. P. 45**

WHEREAS, on June 18, 2015, Plaintiff Irving H. Picard (the "Trustee"), trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC ("BLMIS"), under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et seq.*, and the estate of Bernard L. Madoff, individually, served two subpoenas for certain defendants' bank records to Citibank, N.A. ("Citibank") and JP Morgan Chase, N.A. ("JP Morgan"), pursuant to Federal Rule of Civil Procedure 45 (the "Subpoenas");

WHEREAS, on July 9, 2015, Defendant Jonathan Greenberg (“Greenberg”) filed a Motion for a Protective Order and to Quash Two Subpoenas under Fed. R. Civ. P. 45 and a Memorandum in Support thereof (the “Motion”) (ECF Nos. 323 and 324, respectively), with respect to the Trustee’s Subpoenas;

WHEREAS, on August 11, 2015, the Trustee filed his opposition to the Motion (ECF No. 334);

WHEREAS, on August 14, 2015, Greenberg filed his reply to the Trustee’s opposition (ECF No. 336);

WHEREAS, on August 18, 2015, the Court, on the record, heard argument by the parties on the Motion, directed them to further meet and confer, and adjourned the argument until September 1, 2015;

WHEREAS, on August 21, 2015, as directed by the Court during the August 18 hearing, the Trustee filed a letter enclosing copies of the opinions in *Picard v. Cohmad Securities Corp.* (*In re Bernard L. Madoff Investment Securities LLC*) (*Cohmad I*), 454 B.R. 317 (Bankr. S.D.N.Y. 2011) and *Securities Investor Protection Corp. v. Bernard L. Madoff Investment Securities LLC* (*In re Madoff Securities*) (*Cohmad II*), No. 12 MC 115(JSR), 2013 WL 1609154 (S.D.N.Y. Apr. 15, 2013) (ECF No. 340);

WHEREAS, on August 25, 2015, Greenberg filed a letter responding to the Trustee’s August 21 letter (ECF No. 342);

WHEREAS, on August 28, 2015, the Trustee filed a letter replying to Greenberg’s August 25 letter (ECF No. 343);

WHEREAS, on September 1, 2015, the Court, on the record, heard additional argument by the parties on the Motion;

NOW, THEREFORE, THE COURT HEREBY ORDERS THAT:

1. The Motion (ECF No. 323) is denied.

2. The Trustee is entitled to discovery regarding fraudulent transfers and conveyances made on or prior to December 11, 2008 (the “Filing Date”), including those made more than six years before the Filing Date, for the reasons stated on the record and considering the decisions in *Cohmad I* and *Cohmad II*.

3. Citibank and JP Morgan shall make their document productions in response to the Subpoenas to the Trustee directly, who shall **provide copies of the documents produced to Geenberg’s counsel and** keep all records relating to Greenberg produced in response to the Subpoenas in confidence until the resolution of any privacy issues raised by Greenberg; provided, however, that information relating to the amount, receipt and date of initial or subsequent transfers, and the identity of the transferees, contained in the records is expressly not confidential pursuant to Paragraph 4(e) of the June 6, 2011 Litigation Protective Order (ECF 4137). [SMB: 9/2/15]

4. **The effectiveness of this order shall be stayed for a period of fourteen (14) days from the date hereof. [SMB: 9/2/15]**

SO ORDERED

Dated: September 2nd, 2015
New York, New York

/s/ STUART M. BERNSTEIN
HON. STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE